Proposal LEtter

PROPOSER:

Proposal Date:  [Insert Date] , 20

Georgia Department of Transportation

One Georgia Center

600 West Peachtree Street, NW

Atlanta, Georgia 30308

The undersigned (the **“Proposer”**) submits this proposal (this **“Proposal”**) in response to that certain Request for Proposals (the “**RFP**”) issued by the Georgia Department of Transportation (**“GDOT”**), an agency of the State of Georgia, dated June 16, 2022, as amended, to develop the US 278 Widening and Frontage Road Project (the “**Project**”), as more specifically described herein and in the documents provided with the RFP. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the RFP.

In consideration for GDOT supplying us, at our request, with the RFP and agreeing to examine and consider this Proposal, the undersigned undertakes [jointly and severally] ***[if the Proposer is a joint venture or association other than a corporation, limited liability company or a partnership, leave in the words “jointly and severally,” otherwise delete]***:

* + - * 1. to keep this Proposal open for acceptance for a period of 120 calendar days without unilaterally varying or amending its terms and without any member or partner withdrawing or any other change being made in the composition of the partnership/joint venture/limited liability company/consortium on whose behalf this Proposal is submitted, without first obtaining the prior written consent of GDOT, in GDOT’s sole discretion; and
				2. to provide security (including bonds and insurance) for the due performance of the Design-Build Agreement (the “**DBA**”) as stipulated therein.

If selected by GDOT, the Proposer agrees to: (a) enter into the DBA and satisfy all other conditions to execute the DBA as set forth in Section 6.0. of the Instructions to Proposers (as amended, if applicable, the **“ITP”**) included in the RFP; and (b) perform its obligations as set forth in the Design-Build Documents, including compliance with all commitments contained in this Proposal.

The following individual person is authorized to communicate with, to send and receive correspondence from, and to enter into negotiations with GDOT, in each case on behalf of Proposer and the proposed Design-Build Team in connection with this RFP, the Project, and the DBA:

 [Authorized Representative], who shall be Proposer’s (and the proposed Design-Build Team’s) “**Authorized Representative**”.

Enclosed, and by this reference incorporated herein and made a part of this Proposal, are the following Proposal components:

1. Administrative Information Submittals;
2. Technical Proposal; and
3. Price Proposal.

The Proposer acknowledges receipt, understanding and full consideration of the following:

* ***[list any amendments to the RFP]***

The Proposer certifies the following:

1. the Proposal is submitted without reservation, qualification, assumptions or conditions;
2. the Proposer has carefully examined and is fully familiar with all of the RFP Documents and is satisfied that the RFP Documents provide sufficient detail regarding the Design-Builder’s obligations and do not contain internal inconsistencies, errors, or omissions;
3. the Proposer has requested clarification or interpretation with respect to any perceived deficiency in or omission from the RFP Documents;
4. the Proposer has carefully checked all the words, figures and statements in the Proposal;
5. the Proposer has conducted such other field investigations and additional design development as is prudent and reasonable in preparing this Proposal; and
6. the Proposer has notified GDOT of any unusual site conditions observed prior to the date hereof.

By signature below and submittal of Form F with the attached Proposal Schedule and Form M with the Technical Proposal, the Proposer hereby certifies it has reviewed its Proposal Schedule and Proposal estimates for the Project and that all Work, including Early Portions of the Work, can be completed within the Milestone Deadlines, including all Interim Milestone Deadlines, Substantial Completion Deadline and Final Acceptance Deadline.

Proposer represents that all statements made in the Statement of Qualifications previously delivered to GDOT by the Proposer are true, correct and accurate as of the date hereof, except as otherwise specified in the enclosed Proposal and Proposal forms. The Proposer agrees that such Statement of Qualifications, except as modified by the enclosed Proposal and Proposal forms, is incorporated as if fully set forth herein.

The Proposer understands that GDOT is not bound to award the DBA to the Proposer submitting the Proposal with the lowest proposed bid, the highest scoring Proposal, or any Proposal GDOT may receive.

Except for any Stipulated Fee that may be paid to the Proposer in accordance with the ITP, the Proposer further understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFP process will be borne solely by the Proposer.

The Proposer acknowledges they have read and understand DBA Exhibit 18 and the Liquidated Damages and Nonrefundable Deductions which may be imposed. The amounts of Liquidated Damages and Nonrefundable Deductions represent good faith estimates as to the actual potential damages that GDOT would incur as a result for failure to meet requirements of the DBA with associated Liquidated Damages and Nonrefundable Deductions.

The Proposer agrees that GDOT will not be responsible for any errors, omissions, inaccuracies or incomplete statements in the Proposal.

The Proposal is valid for the duration of the period described in Section 4.5 of the ITP.

The Proposal shall be governed by and construed in all respects according to the laws of the State of Georgia.

Proposer’s business address:

(No.) (Street) (Floor or Suite)

(City) (State or Province) (ZIP or Postal Code) (Country)

State or Country of Incorporation/Formation/Organization: [State or Country]

*[insert appropriate signature block from following pages]*

1. Sample signature block for corporation or limited liability company:

*[Insert the Proposer’s name]*

By:

Print Name:

Title:

2. Sample signature block for partnership or joint venture:

*[Insert the Proposer’s name]*

By: *[Insert general partner’s or member’s name]*

By:

Print Name:

Title:

*[Add signatures of additional general partners or members as appropriate]*

3. Sample signature block for attorney in fact:

*[Insert the Proposer’s name]*

By:

Print Name:

Attorney in Fact

*[insert appropriate signature block from this page including additional requirements]*

ADDITIONAL REQUIREMENTS FOR SINGLE PURPOSE ENTITIES AND JOINT VENTURES ONLY[[1]](#footnote-2):

Describe in detail the legal and organizational structures of the entity (corporation, partnership, joint venture or limited liability company) making the Proposal. Include the following as applicable:

* + - * 1. Provide a table or tables showing the legal and organizational structure of the anticipated Design-Build Team and any Major Non-Participating Members entity. This table shall describe the role of all Participating Members, Major Non-Participating Members, and Contractors.
				2. Provide the following as noted for corporation, partnership, joint venture or limited liability company.
1. If the Proposer (or any member, partner or joint venturer of the Proposer) is a **corporation** or includes a corporation as a joint venturer, partner or member, provide the following:
	1. the state or country of incorporation in addition to the business address;
	2. articles of incorporation and bylaws for the Proposer and each corporation certified by an appropriate individual; and
	3. with respect to authorization of execution and delivery of the Proposal and validity thereof, provide evidence in the form of a resolution of its governing body certified by an appropriate officer of the corporation.
2. If the Proposer (or any member, partner or joint venturer of the Proposer) is a **partnership** or includes a partnership as a joint venturer, partner or member, provide the following:
3. the state or country of formation;
4. the full names and addresses of all partners and the equity ownership interest of each entity, provide the incorporation, formation and organizational documentation for the Proposer and each general partner (partnership agreement and certificate of partnership for a partnership, articles of incorporation and bylaws for a corporation, operating agreement for a limited liability company and joint venture agreement for a joint venture) certified by an appropriate individual; and
5. with respect to authorization of execution and delivery of the Proposal and validity thereof, provide evidence in the form of a partnership resolution and a general partner resolution (as to each general partner) providing such authorization, in each case, certified by an appropriate officer of the general partner.
6. If the Proposer (or any member, partner or joint venturer of the Proposer) is a **joint venture** or includes a joint venture as a joint venturer, partner or member, provide the following:
7. the state or country of organization;
8. the full names and addresses of all joint venturers and the equity ownership interest of each entity, provide the incorporation, formation and organizational documentation for the Proposer and each joint venturer (partnership agreement and certificate of partnership for a partnership, articles of incorporation and bylaws for a corporation, operating agreement for a limited liability company and joint venture agreement for a joint venture) certified by an appropriate individual; and
9. with respect to authorization or execution and delivery of the Proposal and validity thereof, provide evidence in the form of a resolution of each joint venturer, certified by an appropriate officer of such joint venturer. If the Proposer is a joint venture or a partnership, the Proposal must be executed by all joint venture members or all general partners, as applicable.
10. If the Proposer (or any member, partner or joint venturer of the Proposer) is a **limited liability company** or includes a limited liability company as a joint venturer, partner or member, provide the following:
11. the state or country of organization;
12. the full names and addresses of all members and the equity ownership interest of each entity, provide the incorporation, formation and organizational documentation for the Proposer and each member (partnership agreement and certificate of partnership for a partnership, articles of incorporation and bylaws for a corporation, operating agreement for a limited liability company and joint venture) certified by an appropriate individual;
13. with respect to authorization of execution and delivery of the Proposal and validity thereof, provide evidence in the form of a limited liability company resolution and a managing member(s) resolution providing such authorization, certified by an appropriate officer of the managing member(s). If there is no managing member, each member shall provide the foregoing information; and
14. attach evidence to the Proposal and to each letter that the person signing has authority to do so.
	* + - 1. GDOT reserves the right to be provided and to review and evaluate the Proposer’s[[2]](#footnote-3) partnership agreement, limited liability company operating agreement, and joint venture agreement, as applicable, must include an express provision satisfactory to GDOT, in its sole discretion, stating that, in the event of a dispute between or among joint venturers, partners or members, as applicable, no joint venturer, partner or member, as applicable, shall be entitled to stop, hinder or delay work on the Project. If required by GDOT, Proposers shall submit the applicable agreement to GDOT and identify on a cover page where in the agreement the provision can be found.

NON-COLLUSION AFFIDAVIT\*

STATE OF      )

 )SS:

COUNTY OF      )

Each of the undersigned, being first duly sworn, deposes and says that:

1. [Name] is the  [title] of  [firm] and  [name] is the [title] of [firm], which entity(ies) are the  [relationship to Proposer] of      , the entity making the foregoing Proposal.
2. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or a sham; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or refrained from proposing; the Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of the Proposer or any other Proposer, or to fix any overhead, profit or cost element included in the Proposal, or of that of any other Proposer, or to secure any advantage against GDOT or anyone interested in the proposed DBA; all statements contained in the Proposal are true; and, further, the Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.
3. The Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the DBA or rejection of all Proposals and cancellation of the Request for Proposals.

\* Initially capitalized terms not otherwise defined herein shall have the meanings ascribed thereto pursuant to the Instructions to Proposers within the Request for Proposals for the Project.

[*signature page follows*]

|  |  |
| --- | --- |
|  |  |
|  (Signature) (Seal)[[3]](#footnote-4) |  |
|       |  |
| (Name Printed) |  |
|       |  |
| (Title) |  |
|  |  |

Subscribed and sworn to before me this       day of      , 20  .

 Notary Public in and for

 said County and State

[Notary Stamp]

My commission expires:      .

|  |  |
| --- | --- |
|  |  |
|  (Signature) (Seal) |  |
|       |  |
| (Name Printed) |  |
|       |  |
| (Title) |  |

Subscribed and sworn to before me this       day of      , 20  .

 Notary Public in and for

 said County and State

[Notary Stamp]

My commission expires:      .

*[Proposers shall duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed by Participating Members and Major Non-Participating Members.]* All signatures must be individually notarized. For separate notarizations, reproduce this notarization language]

STATEMENT of Disclosure (Conflict OF INTEREST)

Proposer’s Name:  [Proposer’s Name]
 (“**Proposer**”)

The Proposer’s attention is directed to Section 1.6.3. of this RFP regarding organizational conflicts of interest and the restrictions applicable to such conflicts. Proposers are advised that certain firms will not be allowed to participate on any Proposer’s proposed Design-Build Team for the US 278 Widening and Frontage Road Project because of their work with GDOT in connection with the Project procurement.\*

\* Capitalized terms not otherwise defined herein have the meanings given in the Instructions to Proposers for the Project.

**Required Disclosure of Conflicts**

In the space provided below, and on supplemental sheets as necessary, identify all relevant facts relating to past, present, or planned interest(s) of the Proposer, Participating Members, Major Non-Participating Members, proposed consultants and proposed subcontractors, and their respective chief executives, directors, and other key personnel for the project) which may result, or could be viewed as, an organizational conflict of interest in connection with this RFP. Refer to Section 1.6.3 and Section 1.6.4 of the Instructions to Proposers for further information.

For avoidance of doubt, “relevant facts” means, at a minimum disclosure of (a) any current contractual relationships with GDOT, (b) any past, present, or planned contractual or employment relationships with any officer or employee of GDOT, and (c) any other circumstances that might be considered to create a financial interest in the DBA by any GDOT officer or employee, were the Proposer awarded the DBA.

The Proposer shall also disclose matters such as ownership of 10% or more of the stock of, or having directors in common with, any of the individuals or entities involved in preparing the RFP.

The Proposer shall also disclose contractual relationships (i.e., joint ventures) with any of the individuals or entities involved in preparing the RFP, including those identified in Exhibit F, as well as relationships wherein such individual or entity is a contractor or consultant (or subcontractor or subconsultant) to the Proposer or a member of the Proposer’s team. The foregoing is provided by way of example, and shall not constitute a limitation on the disclosure obligations.

**Explanation**

In the space provided below, and on supplemental sheets as necessary, identify steps the Proposer or other entities have taken or will take to avoid, neutralize, or mitigate any organizational conflicts of interest described herein.

**Certification**

The undersigned hereby certifies that, to the best of his or her knowledge and belief, no conflict of interest exists that is required to be disclosed in this Statements of Disclosure (Conflict of Interest), other than as disclosed above.

|  |
| --- |
|  |
| Signature |
|       |
| Name |
|       |
| Title |
|       |
| Company Name |

Date:      , 20

Form of Proposal Bond

***[NTD: dates, values, names, etc., to be completed in compliance with the instructions in the form.]***

***[NTD: Sureties are instructed to ensure that any embossed or other seals are apparent for electronic review, as may be applicable]***

**Bond No.**

**KNOW ALL PERSONS BY THESE PRESENTS**, that the      , as Principal and      , as Surety or as Co-Sureties, each a corporation duly organized under the laws of the State indicated on the attached page, having its principal place of business at the address listed on the attached page, in the State indicated on the attached page, and authorized as a surety in the State of Georgia, are hereby jointly and severally held and firmly bound unto the Georgia Department of Transportation (“**GDOT**”), in the sum of five percent (5%) of the Price Proposal amount [insert written Price Proposal total] **United States Dollars (US** **[insert numeric Price Proposal total e.g., XX,XXX,XXX] )** (the “**Bonded Sum**”), the payment of which we each bind ourselves, and our heirs, executors, administrators, representatives, successors, and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal is herewith submitting its Proposal to design and build US 278 Widening and Frontage Road (the “**Project**”), which Proposal is incorporated herein by this reference and has been submitted pursuant to GDOT’s Request for Proposals dated as June 16, 2022 (as amended or supplemented, the “**RFP**”);

**NOW, THEREFORE**, the condition of this bond is such that, upon occurrence of any of the events set forth below in subsections (a)-(c), then this obligation shall be null and void; otherwise it shall remain in full force and effect, and the Bonded Sum will be forfeited to GDOT as Liquidated Damages and not as a penalty, upon receipt by the Principal and Surety or by the Principal and Sureties listed on the attached page (the “**Co-Sureties**”) of notice of such forfeiture from GDOT:

* + - * 1. The Principal’s receipt of written notice from GDOT that either (i) GDOT will not award the DBA for the Project pursuant to the RFP, or (ii) GDOT has awarded the DBA for the Project, has received the executed DBA and other required documents and does not intend to award the DBA to the Principal;
				2. The Principal’s performance of all of its obligations under the RFP in connection with award of the DBA; or
				3. Failure of GDOT to award the DBA to the Principal within 120 calendar days after the Proposal Due Date.

If the Principal shall (i) fail to promptly and properly fully satisfy on a timely basis the conditions for release set forth in (b) above or (ii) withdraw its Proposal in a manner that is not permitted by the ITP, the Principal and the Surety or Co-Sureties hereby agree to pay to GDOT the full Bonded Sum herein above set forth, as Liquidated Damages and not as a penalty, within 10 days after such failure.

In accordance with Section 4.6, GDOT shall return this Proposal Bond to the Principal following GDOT’s receipt from Principal of conforming Payment and Performance Bonds.

The following terms and conditions shall apply with respect to this bond:

1. If suit is brought on this bond by GDOT and judgment is recovered, the Principal and Surety or Co-Sureties shall pay all costs incurred by GDOT in bringing such suit, including, without limitation, reasonable attorneys’ fees and costs as determined by the court.
2. Any extension(s) of the time for award of the DBA that the Principal may be granted in accordance with the ITP or otherwise, shall be subject to the reasonable approval of Surety or Co-Sureties.
3. The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that Obligee will have no obligation to deal with multiple sureties hereunder. All correspondence from Obligee to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The Co-Sureties also agree to designate a single agent for service of process with respect to any actions on this Bond, which agent shall either be (a) a natural person or (b) a corporation qualified to act as an agent for service of process under Georgia law. The designated representative and agent for service of process may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to Obligee designating a single new representative and/or agent, signed by all of the Co-Sureties. The initial representative shall be:

|  |
| --- |
| [name] |
| [address] |
| [address] |

and the initial agent for service of process shall be:

|  |
| --- |
| [name] |
| [address] |
| [address] |

**SIGNED and SEALED** this       day of      , 20

|  |
| --- |
|       |
| Principal |
| By:       |

***[seal]***

|  |
| --- |
|       |
| Co-Surety |
| By:       |
| Attorney in Fact Date |

***[seal]***

|  |
| --- |
|       |
| Co-Surety |
| By:       |
| Attorney in Fact Date |

***[seal]***

|  |
| --- |
|       |
| Co-Surety |
| By:       |
| Attorney in Fact Date |

***[seal]***

[ADD APPROPRIATE SURETY ACKNOWLEDGMENTS, POWERS OF ATTORNEY]

CO-SURETIES

|  |  |  |
| --- | --- | --- |
| SURETY NAME | SURETY ADDRESS | INCORPORATED IN |
|       |       |       |
|       |       |       |
|       |       |       |
|       |       |       |
|       |       |       |
|  |  |  |

STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION FORM

PREQUALIFICATION OFFICE

Revised 02/24/20

CONSTRUCTION CONTRACTORS BID OPPORTUNITY LIST

Please complete and mail or FAX to:
Construction Bidding Administration
600 West Peachtree Street, NW
Suite 1113
Atlanta, Georgia 30308
TELEPHONE: (404) 631-1147
FAX: (404) 631-1070

This information shall be submitted in accordance with Specification Section 102.18

Prime Contractor/Consultant:

Address/Telephone Number:

Bid/Proposal Number:

Quote Submitted MM/YY:

49 CFR Part 26.11 requires the Georgia Department of Transportation to develop and maintain a “bid opportunity list”. The list is intended to be a listing of all firms participating or attempting to participate, on DOT assisted contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and materials supplies on DOT-assisted projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific DOT assisted project. Prime contractors and consultants must provide information for Nos. 1, 2, 3, and 4 and must provide information they have available on Numbers 5, 5.A.6, 7 , 8 and 9 for themselves, and their subcontractors and subconsultants.

|  |  |
| --- | --- |
| 1. Federal Tax ID Number:        | 6. [ ]  DBE [ ]  Non-DBE |
| 2. Firm Name:        | 7. [ ]  Subcontractor |
| 3. Phone:        | 8. [ ]  Subconsultant |
| 4. Address:               | 9. [ ]  Supplier |
| 5. Contact        |  |
| 5.A. Company E mail address        |  |

|  |  |
| --- | --- |
|  |  |
| 1. Federal Tax ID Number:        | 6. [ ]  DBE [ ]  Non-DBE |
| 2. Firm Name:        | 7. [ ]  Subcontractor |
| 3. Phone:        | 8. [ ]  Subconsultant |
| 4. Address:               | 9. [ ]  Supplier |
| 5. Contact        |  |
| 5.A. Company E mail address        |  |

|  |  |
| --- | --- |
|  |  |
| 1. Federal Tax ID Number:        | 6. [ ]  DBE [ ]  Non-DBE |
| 2. Firm Name:        | 7. [ ]  Subcontractor |
| 3. Phone:        | 8. [ ]  Subconsultant |
| 4. Address:               | 9. [ ]  Supplier |
| 5. Contact        |  |
| 5.A. Company E mail address        |  |
|  |  |

Design-Build Price Proposal

Proposer Name:

The Proposer shall complete the required fields of Section A below. See Exhibit D. for additional explanation and requirements.

The Proposer shall indicate its proposed Contract Sum on this Form F.

1. **Proposal Schedule of Values (or Proposal SOV)**

All items shall be provided as “lump sum” amounts. If there are any differences between the sum of the individual line amounts and totals, the individual line amounts will prevail.

Proposers are advised to note that the form of this Form F *is two pages long* and total and subtotal *calculations must conform and must take into account the constraints identified in the notes at the end of the form itself.*

***[NTD: Update table as necessary for the project. Consider whether items such as a Co-located Project Office is required for design phase; extent of any structures work; very early-on work items for which a conditional NTP3 will be issued and for which there is benefit in calling out the item separately; specialty items that require call out at the Proposal level.***

***Include training hours and calculate and fill in $ value based on current rate (currently $0.80 per hour)***

***Remember that the Project SOV will be much more detailed, so the Proposal SOV should cover just major items.]***

| **SOV Line Item Description** | **0017219** | **0018363** |
| --- | --- | --- |
| 1. GENERAL
 |  |  |
| 1.  Insurance & Bonds  | $      | $      |
| 2.  Project Office Facilities, Equipment, and Supplies  | $      | $      |
| 3.  General Conditions and Administration |  |  |
| 1. Project Management and Coordination
 | $      | $      |
| 1. Home Office Overhead & Support
 | $      | $      |
| 1. Project Management Plan
 | $      | $      |
| 1. Project Schedule and SOV
 | $      | $      |
| 1. Project Reporting
 | $      | $      |
| 1. Public Information and Communications
 | $      | $      |
| 4. Design-Builder-Led Environmental Permit Approval Services  | $      | $      |
| 5. Environmental Mitigation Costs | $      | $      |
| 6. Design-Builder Quality Management | $      | $      |
| 7. Mobilization (see Note 1) | $      | $      |
| **Subtotal A. GENERAL (see Note 2) by PI number** | $      | $      |
| **Subtotal A. GENERAL (see Note 2)** | $      |
| 1. DESIGN SERVICES
 |  |  |  |
| 1.  Engineering Design Services & Support |  |  |
| 1. Design Documents (excluding Record Design Documents)
 | $      | $      |
| 1. Design-Builder Support to Provided Environmental Approval Reevaluation
 | $      | $      |
| 1. ROW Acquisition Services
 | $      | $      |
| 1. Utility Design
 | $      | $      |
| **Sub-Subtotal B.1. Engineering Design Services & Support (see Note 3)** | $      | $      |
| 2.  Design Support During Construction & Record Design Documents (see Note 4) | $      | $      |
| **Subtotal B. DESIGN SERVICES by PI number** | $      | $      |
| **Subtotal B. DESIGN SERVICES** | $      |
| 1. CONSTRUCTION
 |  |  |  |
| 1.  Construction Cost and Support |  |  |
| 1. Earthwork & Roadway Removals
 | $      | $      |
| 1. Base & Paving
 | $      | $      |
| 1. Barrier & Guardrail
 | $      | $      |
| 1. Noise Barrier
 | $      | $      |
| 1. Structural Walls
 | $      | $      |
| 1. Bridges
 | $      | $      |
| 1. Structure Removal / Demo
 | $      | $      |
| 1. Pavement Markings
 | $      | $      |
| 1. Overhead Sign Structures
 | $      | $      |
| 1. Lighting
 | $      | $      |
| 1. Traffic Signals
 | $      | $      |
| 1. ITS Infrastructure
 | $      | $      |
| 1. Drainage
 | $      | $      |
| 1. Erosion Control
 | $      | $      |
| 1. Landscaping
 | $      | $      |
| 1. Signage
 | $      | $      |
| 1. Maintenance During Construction & Temporary Conditions
 | $      | $      |
| 1. Traffic Control
 | $      | $      |
| 1. Utility Adjustment Work (construction only)
 | $      | $      |
| **Sub-Subtotal C.1. Construction Cost and Support** | $      | $      |
| 2.  Punch List, Final Close-out, and Demobilization (see Note 5) | $      | $      |
| **Subtotal C. CONSTRUCTION by PI number** | $      | $      |
| **Subtotal C. CONSTRUCTION** | $      |
| **Contract Sum**(Subtotal A. GENERAL + Subtotal B. DESIGN SERVICES + Subtotal C. CONSTRUCTION) by PI number | $      | $      |
| **Contract Sum**(Subtotal A. GENERAL + Subtotal B. DESIGN SERVICES + Subtotal C. CONSTRUCTION) | $      |
| NOTES |  |   |
|  | 1. “A.7. Mobilization” value shall include miscellaneous startup activities and expenditures not otherwise captured in the other SOV Line Items. Value shall not exceed 2.5% of the sum of the “Sub-Subtotal C.1. Construction Cost and Support” plus “Sub-Subtotal B.1 Engineering Design Services & Support” values. |
|  | 2.  “Subtotal A. GENERAL” value shall not exceed 25% of “Contract Sum” value. |
|  | 3.  “Sub-Subtotal B.1. Engineering Design Services & Support” value shall not exceed 10% of “Contract Sum” value. |
|  | 4. “B.2. Design Support During Construction & Record Design Documents” value shall not be less than 2.0% of “Contract Sum” value. |
|  | 5. “C.2. Punch List, Final Close-out, and Demobilization” shall not be less than 1.0% and no more than 3.0% of the sum of the “Sub-Subtotal C.1. Construction Cost and Support” plus “Sub-Subtotal B.1 Engineering Design Services & Support” values. |

BY SIGNATURE BELOW AND SUBMITTAL OF THIS FORM F WITH THE PROPOSAL SCHEDULE, THE PROPOSER HEREBY CERTIFIES IT HAS REVIEWED ITS PROPOSAL SCHEDULE AND PROPOSAL ESTIMATES FOR THE PROJECT AND THAT ALL WORK, INCLUDING EARLY PORTIONS OF THE WORK, CAN BE COMPLETED WITHIN THE MILESTONE DEADLINES, INCLUDING ANY INTERIM COMPLETION DEADLINES, SUBSTANTIAL COMPLETION DEADLINE AND FINAL ACCEPTANCE DEADLINE.

|  |  |
| --- | --- |
|  **Date:** |  |
| **Signature:** |  |
| **Design-Build Team:** |  |
|  |

Form of Participating Members, Major Non-Participating Members, Contractors and Key Personnel Commitment

Proposer’s Name:

The Proposer hereby commits that, if awarded the US 278 Widening and Frontage Road Project, the Proposer will use the entities and individuals listed below for their stated positions and that, to the extent within the Proposer’s control, such entities and individuals will be available to fulfill their Project-related responsibilities, in each case consistent with the Design-Build Documents.

**Participating Member(s)**:

**Lead Contractor**:

**Lead Design Consultant**:

**Key Personnel (Participating Members and Major Non-Participating Members, as appropriate)**:

|  |  |
| --- | --- |
| * **Lead Contractor Project Manager**:
 |       |
| * **Lead Design Consultant Project Manager (GA P.E. required)**:
 |       |
| * **Engineer of Record (GA P.E. required)**:
 |       |
| * **Contractor Superintendent**:
 |       |
| * **Quality Control Manager**:
 |       |
| * **Environmental Compliance Manager**:
 |       |

Signed:

Printed Name:

Title:

Date:

RESERVED

RESERVED

RESERVED

CERTIFICATION REGARDING LOBBYING

The undersigned Proposer certifies on behalf of itself and all contractors (at all tiers) the following:

The undersigned certifies, to the best of his or her knowledge and belief, on behalf and with the authorization, of Proposer and all Contractors, Subcontractors at all tiers, that:

* + - * 1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
				2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
				3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Proposer shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Date:

Proposer:

Signature:

Title:

Debarment and Suspension Certification

The undersigned certifier, to the best of his or her knowledge and belief, and that of the principals of Proposer (on behalf of Proposer, and all Participating Members, Major Non-Participating Members, Contractors, and Subcontractors identified by Proposer), as of the date hereof, certifies that Proposer, all Participating Members, Major Non-Participating Members, Contractors, and all such identified Subcontractors:

* + - * 1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
				2. have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
				3. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in paragraph b. of this certification; and
				4. have not within a three-year period preceding this application/proposal had one or more public transactions (federal, State or local) terminated for cause or default.

Where the undersigned is unable to certify to any of the statements in this certification, he or she shall attach an explanation to the Proposal.

Date:

Proposer:

Signature:

Title:

Substantial Completion and Final Acceptance Proposal

Proposer Name:

The Proposer shall complete the fields below for each portion (segment) of the Work for which the Proposer will commit to the Milestone Deadlines as set forth below. All days are calendar days.

Table M-1: Milestone Deadlines

|  |  |
| --- | --- |
| Milestones | **Deadlines** |
| NTP 2 Conditions Deadline | Not later than 90 Days after the date GDOT issues NTP1 |
| Substantial Completion Deadline  | No later than June 30, 2024 |
| Final Acceptance Deadline  | 90 Days after the Substantial Completion Date |

|  |  |
| --- | --- |
| Date: |       |
| Proposer: |       |
| Signature: |  |
| Title: |       |

Grant and Assumption of Non-Exclusive Irrevocable License
and Right to Use Work Product

 **THIS GRANT AND ASSUMPTION OF NON-EXCLUSIVE IRREVOCABLE LICENSE AND RIGHT TO USE WORK PRODUCT AGREEMENT** (this “**Agreement**”) is made and entered into as of this       day of      , 20   by and between the Georgia Department of Transportation, an agency of the State of Georgia (“**GDOT**”), and
      (the “**Proposer**”).\*

\* Initially capitalized terms not otherwise defined herein shall have the meanings ascribed thereto pursuant to the Instructions to Proposers within the Request for Proposals for the Project.

**WITNESSETH**

**WHEREAS**, the Proposer was invited to submit a detailed proposal in response to the RFP for the US 278 Widening and Frontage Road Project (the “**Project**”); and

**WHEREAS,** in connection with the submittal of such detailed proposal, the Proposer provided GDOT with proprietary information, trade secrets, techniques, concepts, analyses, approaches, ideas or other Intellectual Property or other work product furnished by Proposers to GDOT during the procurement hereunder (including, without limitation, alternative technical concepts (“ATCs”), if applicable) (collectively, the “**Work Product**”); and

**WHEREAS,** GDOT has made, or will shortly make, its selection of the Apparent Successful Proposer under the RFP, and desires to make payment for the non-exclusive, irrevocable right to use the Proposer’s Work Product as of the date of selection of the Apparent Successful Proposal; and

**WHEREAS**, the Proposer has elected to receive the Stipulated Fee in the amount of $50,000.00, hereto (the “**Work Product Payment**”);

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and adequacy of which are acknowledged by the parties, the parties agree as follows:

**1. GDOT’s Rights to and in Proposer’s Work Product.** Subject to Section 2 below, the Proposer hereby conveys to GDOT a non-exclusive, irrevocable license and right to use the Proposer’s Work Product hereto, which conveyance includes, without restriction or limitation, the right of GDOT to use (or permit others to so use on its behalf) such Work Product (including, without limitation, in connection with any DBA awarded for the Project, any subsequent procurement with respect to the Project or any other GDOT project), with no obligation to pay additional compensation to the Proposer in connection with such Work Product. Such use may, at GDOT’s sole and exclusive discretion, include the disclosure of such Work Product to the Apparent Successful Proposer, if applicable. In receiving such non-exclusive, irrevocable license and right to use the Proposer’s Work Product, GDOT is deemed to similarly be entitled to a non-exclusive, irrevocable license and right to use all Work Product rights, copyrights, patents, trade secrets, trademarks, and service marks in the Proposer’s Work Product, and the Proposer agrees that it will, at the request of GDOT, execute all papers and perform all other acts that may be necessary to ensure that GDOT’s rights, title and interest in the Proposer’s Work Product are protected. The rights conferred herein to GDOT include, without limitation, GDOT’s ability to use the Proposer’s Work Product without the obligation to notify or seek permission from the Proposer.

**2. Proposer Waiver and Release**. Proposer hereby represents and warrants that it has been duly authorized by all Participating Members, Major Non-Participating Members, Contractors, Key Personnel, and any other persons or entities comprising the Proposer’s team to make the following waivers and releases, and hereby, for itself and the foregoing entities (a) fully, unconditionally, and irrevocably waives all rights to protest any aspect of the procurement of the Project (including award) and the procurement of the Project itself; and (b) fully, unconditionally, and irrevocably releases and waives all claims against GDOT arising out of or relating to (i) the use of Proposer’s Work Product, consistent with that set forth in Section 1 of this Agreement, (ii) the procurement of the Project.

**3. Condition to Effectiveness**. The rights and obligations of GDOT and the Proposer under this Agreement, shall irrevocably vest upon the date that the Work Product Payment is made by GDOT to the Proposer.

**4. Indemnity**. Subject to the limitation contained below in this Section 4, the Proposer will, at its own expense, indemnify, protect and hold harmless GDOT and its respective agents, directors, officers, employees, representatives and contractors from all claims, costs, expenses, liabilities, demands, or suits at law or equity (“**claims**”) of, by or in favor of or awarded to any third party arising in whole or in part from: (a) any intellectual property infringement claim or other challenge to the rights of GDOT or its assignees to use the Work Product or (b) any breach of any of the Proposer’s obligations under this Agreement. This indemnity will not apply with respect to any claims caused by or resulting from the sole negligence or willful misconduct of GDOT or its respective agents, directors, officers, employees, representatives or contractors.

GDOT recognizes that the Work Product licensed pursuant to this Agreement is preliminary in nature and that any third party making subsequent use of such Work Product likely will need to modify, developed and advance such Work Product. The indemnity provided in the preceding paragraph of this Section 3 shall not extend to any such third-party modification, development or advancement, but shall rather be limited to the rights in the Work Product granted hereunder.

**5. Assignment**. The Proposer will not assign this Agreement without GDOT’s prior written consent, which consent may be given or withheld in GDOT’s sole discretion. Any assignment of this Agreement without such consent will be null and void.

**6. Authority to Enter into this Agreement**. By executing this Agreement, the Proposer specifically represents and warrants that it has the authority to convey to GDOT a non-exclusive, irrevocable license and right to use the Proposer’s Work Product, including, but not limited to, any rights that might have been vested in team members, subcontractors, consultants or anyone else who may have contributed to the development of the Proposer’s Work Product, free and clear of all liens, claims and encumbrances.

**7. Miscellaneous**.

7.1. The Proposer and GDOT agree that the Proposer, its team members, and their respective employees are not agents of GDOT as a result of this Agreement.

7.2. This Agreement embodies the entire agreement of the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement will supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

7.3. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Georgia, validity of the remaining portions or provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Agreement did not contain the particular part, term, or provisions to be invalid.

7.4. This Agreement will be governed by and construed in accordance with the laws of the State of Georgia.

**IN WITNESS WHEREOF**, this Agreement has been executed and delivered as of the day and year first above written.

|  |  |
| --- | --- |
| ***[Proposer’s name]*** By: Name:       Title:        | GEORGIA DEPARTMENT OF TRANSPORTATIONBy: Name: Russell McMurryTitle: Commissioner |
| ***(Seal)*** | ***(Seal)*** |
|  |  |
| Attested by: | Attested by: |
| By: Name:       Title:        | By: Name: Angela Whitworth Title: Treasurer |

*[Insert Firm Name and Address to whom payment of the Stipulated Fee is to be made]*

Name:

Address:

RESERVED

rESERVED

Georgia Security and Immigration Compliance Act Affidavit

Contract No. and Name:

Design-Build Agreement for the US 278 Widening and Frontage Road Project (the “**Project**”)

Name of Contracting Entity:      \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the Georgia Department of Transportation has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify,[[4]](#footnote-5) in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to the Georgia Department of Transportation at the time the subcontractor(s) is retained to perform such service.

|  |  |  |
| --- | --- | --- |
|       |  |       |
| EEV/E-Verify™ User Identification Number |  | Date of Authorization |
|       |  |       |
| BY: Authorized Officer or Agent(Name of Person or Entity) |  | Date |
|       |  |       |
| Title of Authorized Officer or Agent |  | Printed Name of Authorized Officer or Agent |

SUBSCRIBED AND SWORN BEFORE ME

ON THIS THE

      DAY OF       20

      [NOTARY SEAL]

 Notary Public

My Commission Expires:

Opinion of Counsel

**[Letterhead of independent law firm or in-house counsel – See Section 6.2.1]**

 ***[NTD: insert GDOT General Counsel’s name]***
Georgia Department of Transportation
One Georgia Center
600 West Peachtree Street, NW
Atlanta, Georgia 30308

**Re:** Design-Build Agreement for the US 278 Widening and Frontage Road Project (the “**Project**”)

Dear Mr. Cline**,**

This letter is provided with regard to the Design-Build Agreement dated as of      , 20   (the “**DBA**”), by and between the Georgia Department of Transportation (**“GDOT”**), an agency of the State of Georgia, and       (the “**Design-Build Team**”) for the US 278 Widening and Frontage Road Project (the “**Project**”).

*[Describe relationship to Design-Build Team and its joint venture members, general partners, members, as applicable, and any other entities whose approval is required in order to authorize execution of the DBA.]*

[This letter is provided to you pursuant to Section 6.2.1 of the Instructions to Proposers of that certain Request for Proposals issued by GDOT on June 16, 2022, as amended.]

In giving this opinion, we have examined      . We have also considered such questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement as we have deemed necessary or advisable. *[if a certificate is used/obtained from Design-Build Team, such certificate shall also run in favor of GDOT, and shall be attached to the opinion]*

In giving this opinion, we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. [opinion regarding organization/formation and existence of the Design-Build Team and that the Design-Build Team has corporate power to own its properties and assets, carry on its business, enter into the DBA and to perform its obligations under the DBA] *[if Design-Build Team is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]*

2. [opinion regarding good standing and qualification to do business in the state of Georgia for Design-Build Team] [*if Design-Build Team is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners*]

3. [opinion that the DBA has been duly authorized by all necessary corporate action on the part of Design-Build Team and the DBA has been duly executed and delivered by Design-Build Team] *[if Design-Build Team is a partnership/joint venture, add: “and its joint venture members/general partners” after the first and second “Design-Build Team”]*

4. [opinion that the DBA constitutes a legal, valid and binding obligation of Design-Build Team enforceable against Design-Build Team in accordance with its terms] *[if Design-Build Team is a partnership/joint venture, add: “and its joint venture members/general partners” after the second “Design-Build Team”]*

5. [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the DBA; and that the DBA do not conflict with any agreements to which Design-Build Team is a party] *[if Design-Build Team is a partnership/joint venture, add: “and its joint venture members/general partners are a party”] [*or with any orders, judgments or decrees by which Design-Build Team is bound] *[if Design-Build Team is a partnership/joint venture, add: “and its joint venture members/general partners are bound”]*

6. [opinion that execution, delivery and performance of all obligations by Design-Build Team under the DBA do not conflict with, and are authorized by, the articles of incorporation and bylaws of Design-Build Team] *[if Design-Build Team is a partnership, replace “articles of incorporation and bylaws” with “partnership agreement and (if applicable) certificate of limited partnership”; if Design-Build Team is a joint venture, replace “articles of incorporation and bylaws” with “joint venture agreement”; if Design-Build Team is a limited liability company, replace “articles of incorporation and bylaws” with “operating agreement and certificate of formation”]*

7. [opinion that execution and delivery by Design-Build Team of the DBA do not, and Design-Build Team’s performance of its obligations under the DBA will not, violate any current statute, rule or regulation applicable to Design-Build Team or to transactions of the type contemplated by the DBA]

8. [opinion that the Design-Build Team Agreements (as applicable) have been duly authorized by all necessary corporate action on the part of Design-Build Team and such agreements have been duly executed and delivered by Design-Build Team] *[if Design-Build Team is a partnership/joint venture, add: “and its joint venture members/general partners” after the first and second “Design-Build Team”]*

9. [opinion that the Design-Build Team Agreements constitute legal, valid and binding obligations of Design-Build Team enforceable against Design-Build Team in accordance with their terms] *[if Design-Build Team is a partnership/joint venture, add: “and its joint venture members/general partners” after the second “Design-Build Team”]*

Drug Free Workplace

STATE OF      )

 )SS:

COUNTY OF      )

Each of the undersigned, being first duly sworn, deposes and says that:

      is the       of       and       is the       of      , which entity(ies) are the       of      , the entity making the foregoing Proposal.

The undersigned certifies that the provisions of Code Sections 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-free Workplace Act”, have been complied with in full.

The undersigned further certifies that:

(1) a drug-free workplace will be provided for the Contractor’s employees during the performance of the contract; and

(2) each contractor who hires a subcontractor to work in a drug-free workplace shall secure from that subcontractor the following written certification:

“As part of the subcontracting agreement with (contractor’s name)      , (subcontractor’s name)      , certifies to the contractor that a drug free workplace will be provided for the subcontractor’s employees during the performance of this Contract pursuant to paragraph (7) of subsection (b) of Code Section 50-24-3.”

Also, the undersigned further certifies that he/she will not engage in the unlawful manufacture, sale distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the work.

[*signature page follows*]

|  |  |
| --- | --- |
|  |  |
| (Signature) |  |
|       |  |
| (Name Printed) |  |
|       |  |
| (Title) |  |

Subscribed and sworn to before me this       day of      , 20  .

 Notary Public in and for said County and State

[Seal]

My commission expires:      .

*[Proposers shall duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed by Participating Members and Major Non-Participating Members.]*

Certification of Compliance with the State of Georgia’s Sexual Harassment Prevention Policy

The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, contractors, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. Furthermore, the State of Georgia maintains an expectation that its contractors and their employees and subcontractors will interact with entities of the State of Georgia, their customers, and other contractors of the State in a professional manner that contributes to a respectful work environment free from sexual harassment.

Pursuant to the State of Georgia’s Statewide Sexual Harassment Prevention Policy (the “**Policy**”), all contractors who are regularly on State premises or who regularly interact with State personnel must complete sexual harassment prevention training on an annual basis.

A contractor, including its employees and subcontractors, who have violated the Policy, including but not limited to engaging in sexual harassment and/or retaliation may be subject to appropriate corrective action. Such action may include, but is not limited to, notification to the employer, removal from State premises, restricted access to State premises and/or personnel, termination of contract, and/or other corrective action(s) deemed necessary by the State.

(i) If Contractor is an individual who is regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

(a) Contractor has received, reviewed, and agreed to comply with the State of Georgia’s Statewide Sexual Harassment Prevention Policy located at http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy;

(b) Contractor has completed sexual harassment prevention training in the last year; or will complete the Georgia Department of Administrative Services’ sexual harassment prevention training located at http://doas.ga.gov/human-resources-administration/sexual-harassment-prevention/hr-professionals/employee-training (scroll down to section for entities without a LMS section) or this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and,

(c) Upon request by the State, Contractor will provide documentation substantiating the completion of sexual harassment training.

(ii) If Contractor has employees and subcontractors that are regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

(a) Contractor will ensure that such employees and subcontractors have received, reviewed, and agreed to comply with the State of Georgia’s Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexual-harassment-prevention-policy>**;**

(b) Contractor has provided sexual harassment prevention training in the last year to such employees and subcontractors and will continue to do so on an annual basis; or Contractor will ensure that such employees and subcontractors complete the Georgia Department of Administrative Services’ sexual harassment prevention training located at [http://doas.ga.gov/human-resources-administration/sexual-harassment-prevention/hr-professionals/employee-training](http://doas.ga.gov/human-resources-administration/sexual-harassment-prevention/hr-professionals/employee-training%20) (scroll down to section for entities without a LMS section) or this direct link [https://www.youtube.com/embed/NjVt0DDnc2s?rel=0](https://www.youtube.com/embed/NjVt0DDnc2s?rel=0%20) prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and

(c) upon request of the State of the Georgia Department of Transportation, Contractor will provide documentation substantiating such employees and subcontractors’ acknowledgment of the State of Georgia’s Statewide Sexual Harassment Prevention Policy and annual completion of sexual harassment prevention training.

Date:

Proposer:

Signature:

Title:

SURETY Certification AND ACKNOWLEDGEMENT

[Name of Surety/Insurance company] (“**SURETY**”) HEREBY CERTIFIES[[5]](#footnote-6)1 TO GDOT, AS OF THIS  [insert date] THAT:

(a) The Surety is a licensed bonding surety, currently authorized to conduct business in the State of Georgia;

(b) The Surety is listed on the U.S. Department of the Treasury’s “Listing and Approved Sureties” (accessible at the following weblink: <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.html>);

(c) The Surety’s rating is      , and rated by       and      [[6]](#footnote-7);

(d) The Surety has reviewed the Request for Proposals (“**RFP**”), P.I. No. 0017219 & 0018363, Morgan, Newton, and Walton Counties, GA, and amendments, dated       ;

(e) The Surety has evaluated [Proposer’s][Lead Contractor’s][other entity’s] financial statements and capability, backlog and work-in-progress in determining its bonding capacity; [and]

(f)  [Proposer][Lead Contractor][other entity] is capable of obtaining both a payment bond and a performance bond, each in an aggregate stated amount of $      million; [and]

(g) [Name of entity], a [type of entity], is capable of obtaining [both] [a payment bond] [and] [a performance bond], [each] in an amount of $      million ***[NTD: for separate letters, input specific portion of $[\_\_\_] million amount*** $      million ***[NTD: for a single letter covering all members of the Respondent team]***[, as evidence of [entity’s] bonding capacity.]***[NTD: Delete if inapplicable]***; and

(h) ***[NTD: insert if applicable]***[*certification regarding analysis of the factors surrounding any proposed or anticipated material changes in the financial condition of the entity on behalf of which this Certificate and Acknowledgment is given, identifying any special conditions that may be imposed before issuance of surety bonds for the Project.*]

Capitalized terms used but not defined herein shall have the meanings set forth in the RFP.

IN WITNESS WHEREOF, the undersigned is the [NTD: insert title] of the Surety, to which this Certificate and Acknowledgment relates, and has duly executed this Certificate and Acknowledgment as of the date first written above.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| By: |  |  | Print Name: |       |
| Title: |       |  |  |  |

FORM OF ESCROW AGREEMENT

***[NTD: confirm form, escrow agent/company with Office of Legal Services prior to distribution]***

THIS ESCROW AGREEMENT is made and entered into this       day of      , 20  , (this “**Escrow Agreement**”) by and among the Georgia Department of Transportation; an agency of the State of Georgia, hereinafter called the “**Department**”; and      ; hereinafter called the “**Company**”; and      , hereinafter called the “**Escrow Agent**”.

WHEREAS, the Department selected the Company as Apparent Successful Proposer for the US 278 Widening and Frontage Road Project (the “**Project**”) based on its Proposal submitted pursuant to a Request for Proposals dated      , 20   (the “**RFP**”). Capitalized terms used but not defined herein shall have the meaning assigned to such term in the RFP;

WHEREAS, the Department and Company are entering into this Escrow Agreement, to provide for specific contingencies governing the escrow and control of the Escrowed Documents; and

WHEREAS, the Department and Company desire the Escrow Agent to hold the Escrowed documents of the Company.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, it is agreed by and between the parties hereto that:

**ARTICLE I
ESCROW BID DOCUMENTATION**

The parties hereto agree to the establishment of the escrow of the Escrowed Documents. It is the understanding of the parties hereto that the Department shall pay the Escrow Agent, as determined by separate agreement, for the escrow of the Escrowed Documents submitted to the Escrow Agent under the terms of this Escrow Agreement.

**ARTICLE II
ACKNOWLEDGMENT**

By its signature below, the Escrow Agent hereby acknowledges receipt from the Department and Company of a sealed container bearing the Company’s name, address and Project Number assigned by the Department and containing, as specified by the affidavit of the Company, the Escrowed Documents.

**ARTICLE III
DEPOSIT OF ESCROWED DOCUMENTS**

The Escrowed Documents shall remain on deposit with the Escrow Agent until those conditions of release, as specified in ARTICLE IV are met. As long as the Escrowed Documents remain in escrow with the Escrow Agent, the Escrow Agent shall not allow any person access, to gain possession, or to in any way interfere with the sealed Escrowed Documents container.

**ARTICLE IV
RELEASE FROM ESCROW**

Upon being presented by the Department with a Company-signed final standard release form for the Project, the Escrow Agent shall deliver to the Company the sealed container bearing the Company’s name and address and project number on it. The Escrow Agent is also authorized to release the Escrowed Documents sealed container to the Department without the Company’s signed consent subject to the following conditions:

1. The Company has provided written notification to the Department of the Company’s intention to file a claim related to the Project Agreement; or

2. The Company has initiated litigation against the Department relating to the Project Agreement.

Prior to any release from escrow to the Department, the Escrow Agent shall verify that either condition of release to the Department, as stated above, has been met by providing written notice to the Company of the Escrow Agent’s intention to release the Escrowed Documents to the Department. Such written notice from the Escrow Agent shall be sent by certified mail no less than ten calendar days prior to release to the Department.

**ARTICLE V
INDEMNITY**

The Company agrees to indemnify and hold the Escrow Agent harmless against any loss, claim, damage, liability or expenses incurred in connection with any action, suit, proceeding, claim or alleged liability arising from this Escrow Agreement, provided, however, that the Escrow Agent shall not be so indemnified or held harmless for its negligence or acts of bad faith by it or any of its agents or employees.

**ARTICLE VI
NOTICES**

All notices and other communication shall be in writing and shall be deemed to have been duly given and delivered if mailed by certified mail, return receipt requested, postage prepaid to the addresses stated herein:

Department:

Georgia Department of Transportation
ATTN: General Counsel
600 West Peachtree Street
Atlanta, Georgia 30308

Company:

[Company name]
[Attention: name]
[Address 1]
[Address 2]

Escrow Agent:

[GDOT’s contracted escrow agent]
[Attention: name]
[Address 1]
[Address 2]

**ARTICLE VII
DUTIES OF ESCROW AGENT**

The duties and responsibilities of the Escrow Agent shall be limited to those expressly set forth herein and the Escrow Agent shall act only in accordance with this Escrow Agreement.

Notwithstanding specific provisions hereunder, the Escrow Agent shall at all times act upon and in accordance with the joint written instructions of the Department and Company.

**ARTICLE VIII
LAWS**

This Escrow Agreement shall be deemed to have been executed in Fulton County, Georgia and the laws of the State of Georgia shall apply.

**ARTICLE IX
ASSIGNMENT**

This Escrow Agreement shall not be assigned without the written consent of all the parties hereto.

**ARTICLE X
SURVIVAL OF CONTRACT**

Except as may be expressly modified, all terms and conditions of this Escrow Agreement remain in full force and effect. The establishment of this Escrow Agreement is limited solely by the contingency of release of the Escrowed Documents by the Company to the Department, as established by Article IV. Nothing contained herein shall alter the rights of the parties hereto.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

*[Remainder of this Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereunto set their hands and seals the day above first written.

|  |  |
| --- | --- |
| Company: By: (SEAL)Name:     Title:      | Escrow Agent: By: (SEAL)Name:     Title:      |
|  |  |
|  WITNESS |  WITNESS |
|  |  |
| Department: By: Name:       Title:        | (SEAL) |
|  |  |
|  WITNESS |  |

**ESCROW CONTAINER SEAL NUMBERS:**

FORM OF ESCROW AFFIDAVIT

State of Georgia

County of Fulton

COMES NOW (Name), (Title) of (Company Name) who, after having been duly sworn, on oath, state and depose as follows:

**1.** This Affidavit is based upon the personal knowledge of the Affiant.

**2.** **(Company Name)**  submitted a Proposal with respect to the Georgia Department of Transportation (“**GDOT**”) US 278 Widening and Frontage Road Project P.I. No. 0017219 & 0018363 (the “**Project**”) and the Company has been named the Apparent Successful Proposer for the Project.

**3.** This Affidavit is given in compliance with the provisions of the Request for Proposals for the Project.

**4.** The Affiant attests that, in such Affiant’s capacity for (Company Name), such Affiant is personally aware of the Detailed Cost and Pricing Data which was used by the Company in determining, formulating and submitting its Proposal for the Project.

**5.** The Affiant further states that (s)he has examined the Detailed Cost and Pricing Data which has been placed in a sealed container marked “Detailed Cost and Pricing Data”, and that all such Detailed Cost and Pricing Data utilized by the Company in determining, formulating, and submitting its bid is contained in the sealed container so marked.

**6.** The Detailed Cost and Pricing Data is listed in Exhibit A hereto, which is attached hereto and incorporated herein as fully as if included in this Affidavit at this paragraph 6.

**[SIGNATURE ON NEXT PAGE]**

Further Affiant sayeth not.

|  |  |
| --- | --- |
|  |       |
| By: | (Company Name) |
|  | (Signature) |
|  |       |
|  | (Print Name) |
| Its: |       |
|  | (Title) |

Sworn to and subscribed before me this       day of      , 20  .

|  |  |
| --- | --- |
|  | NOTARY PUBLIC |
|  [NOTARY SEAL] |  |
| My Commission expires: |       |

EXHIBIT A
DETAILED COST AND PRICING DATA

FORM OF Insurance Letter

[letterhead of company]

[DATE]  ***[NTD: no earlier than the Setting Date]***

Georgia Department of Transportation

One Georgia Center

600 West Peachtree Street, NW

Atlanta, Georgia 30308

Attn: Contracting Officer, P.I. No. 0017219 & 0018363 – US 278 Widening and Frontage Road Design-Build Project

To whom it may concern:

Reference is made to that certain Request for Proposals to Design and Construct the US 278 Widening and Frontage Road Project (Morgan, Newton, and Walton Counties ) through a Design-Build Agreement, Project Number P.I. Nos. 0017219 & 0018363 – US 278 Widening and Frontage Road Design-Build, issued on June 16, 2022 (as amended, the “**RFP**” and its “**Instructions to Proposers**,” the “**ITP**”) Initially capitalized terms used, but not defined, have the meanings given in the Design-Build Agreement (“**DBA**”), to be entered into between the Apparent Successful Proposer and the Georgia Department of Transportation (“**GDOT**”) in accordance with the RFP.

As part of its Proposal submitted by [PROPOSER NAME], we hereby confirm the following, as of the date of this letter:

* + - * 1. [COMPANY] have read the Design-Build Documents (including specifically the insurance requirements);
				2. the Proposer, as Design-Builder, for itself or through a Participating Member or Major Non-Participating Member, and as permitted by the DBA, is capable of obtaining, and will be able to obtain and maintain, insurance, of the types and in the amounts required by the Design-Build Documents, and can do so under the terms, and subject to the conditions, of the DBA;
				3. the Proposal (with respect to insurance placements) conforms to the requirements of the DBA; and
				4. the amount proposed by Proposer in its Price Proposal for the premiums and costs of such insurance reflects the current, fair market cost of providing all such insurance coverage, collectively and as to each individually, and

[I am a licensed insurance broker in the State of Georgia. I have been retained by or on behalf of Proposer to serve as its broker with respect to the Project and for the purposes of this confirming letter to GDOT. I have been duly authorized by Proposer and by [COMPANY] to make these confirmations and to deliver this letter to GDOT, on behalf of Proposer and [COMPANY], and not in my individual capacity, acknowledging that GDOT will rely on this letter and its conformations in evaluating Proposer’s Proposal for potential selection as the Apparent Successful Proposer.]

|  |  |
| --- | --- |
|  | Respectfully, |
|  |       |
|  | [TITLE] |
|  | on behalf of [COMPANY] and [PROPOSER] |

FORM OF GUARANTY

*[****NTD: to be conformed in execution version based on whether a guarantor is used; GDOT to consider and insert net worth and liquidity requirements based upon the Contract Sum]***

**GUARANTY**

This Guaranty (the “Guaranty”) is made by      , [a       organized under the laws of      ] (“Guarantor”), in favor of the Georgia Department of Transportation, a body corporate and politic and an instrumentality and public corporation of the State of Georgia (“GDOT”).

WHEREAS,      , as Design-Builder (the “Design-Builder”), and GDOT are parties to that certain Design-Build Agreement for the       Project (the “Design-Build Agreement”) pursuant to which the Design-Builder has agreed to develop, design, and construct the Project. Unless the context otherwise requires, capitalized terms used but not separately defined in this Guaranty will have the meaning given to them in the Design-Build Agreement.

To induce GDOT to (a) enter into the Design-Build Agreement; and (b) consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.

The execution of the Design-Build Agreement by GDOT and the consummation of the transactions contemplated by the Design-Build Agreement will materially benefit Guarantor. Without this Guaranty, GDOT would not have entered into the Design-Build Agreement with Design-Builder. In consideration of GDOT’s execution of the Design-Build Agreement and consummation of the transactions contemplated by the Design-Build Agreement, Guarantor has agreed to execute this Guaranty.

**NOW, THEREFORE,** in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. **Guaranty.**
	1. Guarantor, as primary obligor and not as surety, unconditionally and absolutely, guarantees to GDOT, and its successors and assigns, the full and prompt payment and performance when due (whether at maturity, upon a default, upon resolution of a dispute, by acceleration, or otherwise under the Design-Build Agreement) of all of the obligations of the Design-Builder arising out of, in connection with, under or related to the Design-Build Agreement (including, without limitation, the Design-Builder’s obligation to make payment to GDOT for: Liquidated Damages, Nonrefundable Deductions, stipulated damages, indemnity, Warranty, and other costs incurred by GDOT with respect to which Design-Builder is obligated under the Design-Build Agreement to repay GDOT). The obligations guaranteed pursuant to this Guaranty are collectively referred to in this Guaranty as the “Guaranteed Obligations.”
	2. Guarantor covenants to GDOT that if at any time the Design-Builder should default in the performance when due of, observance when due of, or should commit a breach of, any of the Guaranteed Obligations, Guarantor shall promptly, upon written notice by GDOT, perform or pay the Guaranteed Obligations or cause the performance or payment of the Guaranteed Obligations.
	3. Guarantor agrees that, to the extent Guarantor’s obligations under this Guaranty relate to obligations of the Design-Builder which require performance other than the payment of money, GDOT may proceed against Guarantor to effect specific performance of such obligations (to the extent that such relief is available). Guarantor agrees at GDOT’s direction to assume or to procure the assumption of the Design-Build Agreement, and to perform or to procure the performance of all of the terms and conditions under the Design-Build Agreement should the Design-Build Agreement be disaffirmed or rejected by a trustee or court in a bankruptcy proceeding involving the Design-Builder, or, at the option of GDOT, Guarantor shall, in the event of the Design-Builder’s bankruptcy, make and enter into or have made and entered into, by one or more entities reasonably satisfactory to GDOT, new contract documents for the balance of the term of the Design-Build Agreement, which new contract documents shall be in form and substance identical to the replaced Design-Build Agreement.
	4. This Guaranty shall become effective as of the date hereof and shall remain effective through the end of the Warranty Period (as such term is defined under the Design-Build Agreement). Guarantor agrees that Final Acceptance shall not prevent GDOT from recovering from Guarantor in regard to any: (a) overpayment sustained for failure of Design-Builder to fulfill the obligations under the Design-Build Documents; and/or (b) continuing or surviving obligations of the Design-Builder under the Design-Build Agreement, including any Warranty obligations. Guarantor agrees that termination of the Design-Build Agreement shall not relieve Guarantor of its obligations in regard to any claims arising prior to such termination.
2. **Unconditional Obligations.** This Guaranty is a guaranty of payment and performance and not of collection. Except as provided in Section 23, this Guaranty is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred, and whether or not enforceable against the Design-Builder. If any payment made by the Design-Builder or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor’s obligations under this Guaranty will not be released, discharged or otherwise affected by:
	1. except as to applicable statutes of limitation, failure, omission, delay, waiver or refusal by Design-Builder to exercise, in whole or in part, any right or remedy held by Design-Builder with respect to the Design-Build Agreement or any transaction under the Design-Build Agreement;
	2. any change in the Design-Build Agreement or the obligations under the Design-Build Agreement, any change in the existence, structure or ownership of Guarantor or the Design-Builder, or any dissolution, winding up, liquidation, insolvency, bankruptcy, reorganization or similar proceeding affecting the Design-Builder, Guarantor or their respective assets or any defense that may arise in connection with or as a result of such dissolution, winding up, liquidation, insolvency, bankruptcy, reorganization or other proceeding;
	3. the existence of any claim or set-off which the Design-Builder has or Guarantor may have against GDOT, whether in connection with this Guaranty or any unrelated transaction, provided that nothing in this Guaranty will be deemed a waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit;
	4. any release or discharge by operation of law of Design-Builder from any liability with respect to the Design-Build Agreement;
	5. any failure of consideration or lack of authority of the Design-Builder, any lack of validity or enforceability, illegality or defect or deficiency, or any other defense to formation of the Design-Build Agreement (or any term, condition or covenant thereof);
	6. any change in the time, manner, terms, place of payment of, or any other term of all or any of the Guaranteed Obligations, or any other amendment, extension, waiver of, or any consent to departure from any Design-Build Agreement executed in connection therewith;
	7. the incapacity or lack of power or authority of, or dissolution or change in, the members or shareholders of the Design-Builder;
	8. any release or subordination of any collateral then held by GDOT as security for the performance by Design-Builder of the Guaranteed Obligations; or
	9. any other circumstance that might otherwise constitute a defense available to, or a discharge of, Guarantor with respect to the Guaranteed Obligations, other than performance or payment in full of the Guaranteed Obligations.

This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Design-Build Agreement, Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefor or any other circumstances relating to the Guaranteed Obligations, except as provided in Section 23, which applies to all of the subsections in this Section 2.

1. **Independent Obligations.** Guarantor agrees that the Guaranteed Obligations are independent of the obligations of the Design-Builder and if any default occurs under this Guaranty, a separate action or actions may be brought and prosecuted against Guarantor whether or not the Design-Builder is joined therein. GDOT may maintain successive actions for other defaults of Guarantor. GDOT’s rights under this Guaranty will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been indefeasibly paid and fully performed.
	1. Guarantor agrees that GDOT may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against the Design-Builder. Guarantor waives the right to require GDOT to proceed against the Design-Builder, to exercise any right or remedy under any of the Design-Build Agreement or to pursue any other remedy or to enforce any other right.
	2. Guarantor will continue to be subject to this Guaranty notwithstanding: (a) any modification, agreement or stipulation between the Design-Builder and GDOT or their respective successors and assigns, with respect to any of the Design-Build Agreement or the Guaranteed Obligations; (b) any waiver of or failure to enforce the Guaranteed Obligations or any of the terms, covenants or conditions contained in any of the Design-Build Agreement or any modification thereof; (c) subject to Section 23, any release of the Design-Builder from any liability with respect to any of the Design-Build Agreement; or (d) any release or subordination of any collateral then held by GDOT as security for the performance by the Design-Builder of the Guaranteed Obligations.
	3. The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Design-Build Agreement or the pursuit by GDOT of any remedies which GDOT either now has or may hereafter have with respect thereto under any of the Design-Build Agreement.
	4. Design-Builder and Guarantor acknowledge and agree that Guarantor’s obligations and undertakings under this Guaranty are derivative of, and not in excess of, the Guaranteed Obligations and Guarantor shall be entitled to all rights and defenses of Design-Builder except as previously waived or disclaimed in this Guaranty. Notwithstanding any other term or provision of this Guaranty, in the event that the Design-Builder’s obligations have been changed by any modification, agreement or stipulation between Design-Builder and GDOT or their respective successors or assigns, the term “Guaranteed Obligations” as used in this Guaranty shall mean the Guaranteed Obligations as so changed, except that the Guaranteed Obligations shall be determined without regard to the effect of any such modification, agreement or stipulation in the context of a bankruptcy or insolvency proceeding in which Design-Builder is the debtor, unless otherwise specified in the modification, agreement or stipulation.
2. **Liability of Guarantor.**
	1. GDOT may enforce this Guaranty upon the occurrence of a breach by the Design-Builder of any of the Guaranteed Obligations, notwithstanding the existence of any dispute between GDOT and the Design-Builder with respect to the existence of such a breach.
	2. Guarantor’s performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor’s liability for those Guaranteed Obligations that have not been performed.
	3. GDOT, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor’s liability under this Guaranty, from time to time may (a) with respect to the financial obligations of the Design-Builder, if and as permitted by the Design-Build Agreement, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (b) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto, (c) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment and performance of this Guaranty or the Guaranteed Obligations, (d) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (e) enforce and apply any security hereafter held by or for the benefit of GDOT in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that GDOT may have against any such security, as GDOT in its discretion may determine, and (f) exercise any other rights available to it under the Design-Build Agreement.
	4. This Guaranty and the obligations of Guarantor under this Guaranty will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than indefeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (a) any failure or omission to assert or enforce an agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Design-Build Agreement, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (b) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Design-Build Agreement or any agreement or instrument executed pursuant thereto; (c) GDOT’s knowledge of or consent to the change, reorganization or termination of the corporate structure or existence of the Design-Builder; (d) any defenses, set-offs or counterclaims that the Design-Builder may allege or assert against GDOT in respect of the Guaranteed Obligations, except as provided in Section 23; and (e) as pertains to each individual Person comprising the Guarantor, the acts or omissions of any other Person(s) comprising the Guarantor (other than complete payment and performance of the Guaranteed Obligations).
3. **Waivers.** To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of:
	1. any right to require GDOT to proceed against the Design-Builder or any other Person or to proceed against or exhaust any security held by GDOT at any time or to pursue any right or remedy under any of the Design-Build Agreement or any other remedy in GDOT’s power before proceeding against Guarantor;
	2. any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereby by Guarantor, the Design-Builder or any other Person or the failure of GDOT to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person;
	3. any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof;
	4. any defense that may arise by reason of statute of limitations, *res judicata*, statute of frauds, fraud, minority, usury, or unenforceability;
	5. any right or defense arising out of an election of remedies by GDOT even though the election of remedies, such as non-judicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor’s rights of subrogation and reimbursement against the Design-Builder;
	6. all defenses that may arise relating to notices to and confirmation by the Guarantor or to any other Person, including, but not limited to, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of the Design-Builder under any of the Design-Build Agreement, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto;
	7. any defense based upon any act or omission of GDOT which directly or indirectly results in or aids the discharge or release of the Design-Builder, Guarantor or any security given or held by GDOT in connection with the Guaranteed Obligations;
	8. any duty on the part of GDOT to disclose to Guarantor any facts GDOT may now or hereafter know about the Design-Builder, regardless of whether GDOT has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume, has reason to believe that such facts are unknown to Guarantor, or has a reasonable opportunity to communicate such facts to Guarantor. Guarantor acknowledges that it is fully responsible for being and keeping informed of the financial condition of the Design-Builder and of all circumstances bearing on the risk of non-payment of any Guaranteed Obligations;
	9. [the fact that Guarantor may at any time in the future dispose of all or part of its direct or indirect ownership or economic interests in the Design-Builder]; and
	10. any and all suretyship defenses under applicable law.
4. **Waiver of Subrogation and Rights of Reimbursement.**  Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against the Design-Builder that arises from the performance of Guarantor under this Guaranty, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of GDOT against the Design-Builder, or any other security or collateral that GDOT now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. All existing or future indebtedness of the Design-Builder or any shareholders, partners, members, joint venturers of the Design-Builder to Guarantor is subordinated to all of the Guaranteed Obligations until such time as all Guaranteed Obligations shall have been indefeasibly paid in full. Whenever and for so long as the Design-Builder **shall be in default in the performance of a Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by the Design-Builder or any shareholders, partners, members, joint venturers of the Design-Builder to Guarantor without the prior written** consent of GDOT. Any payment by the Design-Builder or any shareholders, partners, members, joint venturers of the Design-Builder to Guarantor in violation of this provision shall be deemed to have been received by Guarantor as trustee for GDOT.
5. **Cumulative Rights.** All rights, powers and remedies of GDOT under this Guaranty will be in addition to and not in lieu of all other rights, powers and remedies given to GDOT, whether at law, in equity or otherwise.
6. **Representations and Warranties.** In addition to the representations and warranties with respect to solvency set forth in Section 20, Guarantor represents and warrants that:
	1. it is a       duly organized, validly existing, and in good standing under the laws of the State of       and qualified to do business and is in good standing under the laws of the State of Georgia;
	2. it has all requisite organizational power, right, and authority to execute, deliver and perform this Guaranty;
	3. the execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary corporate action on the part of Guarantor and proof of such authorization will be provided with the execution of this Guaranty;
	4. this Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;
	5. neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an event of default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under: (a) the certificate of incorporation or by-laws of Guarantor, (b) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right, restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (c) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;
	6. it now has and will continue to have full and complete access to any and all information concerning the transactions contemplated by the Design-Build Agreement or referred to therein, the financial status of the Design-Builder and the ability of the Design-Builder to pay and perform the Guaranteed Obligations;
	7. it has reviewed and approved copies of the Design-Build Agreement and is fully informed of the remedies GDOT may pursue, with or without notice to the Design-Builder or any other Person, in the event of default of any of the Guaranteed Obligations;
	8. it has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of the Design-Builder and will keep itself fully informed as to all aspects of the financial condition of the Design-Builder, the performance of the Guaranteed Obligations and of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of GDOT to disclose any matter, fact or thing relating to the business, operations or conditions of the Design-Builder now known or hereafter known by GDOT;
	9. no consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date of this Guaranty;
	10. there is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Entity which challenges the validity or enforceability of this Guaranty;
	11. it is not subject to any outstanding judgment, rule, writ, injunction or decree of any Governmental Entity that adversely affects its ability to perform its obligations under this Guaranty; and
	12. it derives a substantial direct or indirect economic benefit from the Design-Build Agreement and the transaction(s) consummated thereunder.
7. **Net Worth/Liquidity**

9.1. Commencing as of the date hereof and through the end of the Warranty Period, Guarantor shall at all times [in aggregate][[7]](#footnote-8) maintain a Net Worth of at least $     .00. “Net Worth” means tangible net worth, calculated and determined by GDOT in accordance with GAAP (or such other accounting basis reasonably acceptable to GDOT), which shall be exclusive of Guarantor’s interest in Design-Builder and the Project. Failure to maintain such a Net Worth shall constitute a Design-Builder Default under the Design-Build Agreement that, subject to the cure periods thereunder, entitles GDOT to exercise all of its remedies thereunder. Commencing as of the date hereof and through the end of the Warranty Period, Guarantor shall at all times [in aggregate][[8]](#footnote-9) maintain Liquidity of at least $     .00. As used herein, the term “Liquidity” shall mean the amount of liquid assets held by Guarantor, calculated and determined by GDOT in accordance with GAAP (or such other accounting basis reasonably acceptable to GDOT), which shall be exclusive of Guarantor’s interest in Design-Builder and the Project. Failure to maintain such a Liquidity shall constitute a Design-Builder Default under the Design-Build Agreement that, subject to the cure periods thereunder, entitles GDOT to exercise all of its remedies thereunder.

9.2. [A Design-Builder Default under Section 9.1 of this Guaranty shall be deemed cured following: (a) Guarantor’s satisfaction the Net Worth and Liquidity requirements set forth in Section 9.1 within 30 days of receipt of notice from GDOT of such Design-Builder Default; or (b) Design-Builder or Guarantor’s furnishing of a letter of credit or payment to GDOT for the benefit of the Project, in the amount of the reasonably estimated maximum liability of the Guarantor under this Guaranty; provided, however, that diligent efforts to furnish such a letter of credit or make such payments commence within 10 days of receipt of notice from GDOT of such Design-Builder Default, and such cure is effected within 30 days.]

1. **Financial Reporting; Audit.**
	1. Guarantor hereby warrants and represents unto GDOT that any and all balance sheets, net worth statements and other financial data which may hereafter be given to GDOT with respect to Guarantor will at the time of such delivery fairly and accurately present the financial condition of Guarantor.
	2. Guarantor shall furnish to GDOT, 30 days after any request by GDOT, a financial statement for the calendar year (including, but not limited to, income, expenses, and cash flows), certified as true, complete, and accurate in all material respects, in such form and with such detail as GDOT may reasonably require.
	3. Guarantor acknowledges and agrees that GDOT is authorized once in any 12 month period, or at any time during an ongoing Design-Builder Default under the Design-Build Agreement or default by Guarantor hereunder, to obtain a credit report on Guarantor, the cost of which shall be paid for by Guarantor.
2. **Governing Law.** The validity, interpretation and effect of this Guaranty are governed by and will be construed in accordance with the laws of the State of Georgia applicable to contracts made and performed in such State and without regard to conflicts of law doctrines except to the extent that certain matters are preempted by federal law. The Guarantor consents to the jurisdiction of the State of Georgia with regard to this Guaranty. The venue for any action regarding this Guaranty shall be the Superior Court of Fulton County, Georgia.
3. **Entire Agreement.** This Guaranty contains the entire agreement of the Guarantor with respect to the transactions contemplated hereby, and supersedes all negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date hereof, written or oral, with respect to the subject matter hereof. No waiver, modification or amendment of any provision of this Guaranty is effective unless made in writing and duly signed by GDOT referring specifically to this Guaranty, and then only to the specific purpose, extent and interest so provided.
4. **Amendments.** No amendment of this Guaranty shall be effective unless in writing and signed by Guarantor and GDOT. No waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless such waiver shall be in writing and signed by GDOT. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it was given.
5. **Severability.** If any provision of this Guaranty is determined to be unenforceable for any reason by a court of competent jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties and all of the provisions not deemed unenforceable will be deemed valid and enforceable to the greatest extent possible.
6. **Notices.** Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by email communication followed by a hard copy and with receipt confirmed by telephone, to the following addresses (or to such other address as may from time to time be specified in writing by such Person):

If to GDOT:

Georgia Department of Transportation
Office of the Chief Engineer
600 West Peachtree Street, NW
Atlanta, Georgia 30308
Telephone: (404) 631-1004
Email: mpirkle@dot.ga.gov

With copies to:

Georgia Department of Transportation
Division of General Counsel/Administration
600 West Peachtree Street, Suite 2300
Atlanta, Georgia 30308
Telephone: (404) 631-1496
Email: mcline@dot.ga.gov

Georgia Department of Transportation
Office of Legal Services
600 West Peachtree Street, Suite 2300
Atlanta, Georgia 30308
Attention: Deputy General Counsel
Telephone: (404) 631-1437
Email: asimelaro@dot.ga.gov

If to Guarantor:

Attention:

Telephone:

Email:

Either Guarantor or GDOT may from time to time change its address for the purpose of notices by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

All notices and other communications required or permitted under this Guaranty which are addressed as provided in this Section 15 shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U.S. Postal Service, private courier, or other Person making the delivery. Notwithstanding the foregoing, all notices and other communications received after 5:00 p.m. shall be deemed received on the first Business Day following delivery. For avoidance of doubt, the date of delivery of any notice or communication under this Guaranty initially dispatched by electronic communication will be considered to be the date of the email notification during the regular business hours of 8:00 a.m. to 4:00 p.m. to the appropriate GDOT personnel. GDOT will not accept facsimile communication of any notice or communication under this Guaranty.

1. **Captions**. The captions of the various Sections of this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Guaranty.
2. **Assignability.** This Guaranty is binding upon and inures to the benefit of the successors and assigns of Guarantor and GDOT, but is not assignable by Guarantor without the prior written consent of GDOT, which consent may be granted or withheld in GDOT’s sole discretion. Any assignment by Guarantor effected in accordance with this Section 17 will not relieve Guarantor of its obligations and liabilities under this Guaranty. GDOT may assign all or any portion of its rights, title and interests in and to this Guaranty in accordance with Section 19.3 (Assignment by GDOT) of the Design-Build Agreement.
3. **Construction of Agreement.** Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party, but will be construed in the manner that most accurately reflects the parties’ intent as of the date hereof.
4. **No Waiver.** Any forbearance or failure to exercise, and any delay by GDOT in exercising, any right, power or remedy under this Guaranty will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.
5. **Bankruptcy; Post-Petition Interest; Solvency.**
	1. The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Design-Builder or by any defense which the Design-Builder may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. GDOT is not obligated to file any claim relating to the Guaranteed Obligations if the Design-Builder becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of GDOT so to file will not affect Guarantor’s obligations under this Guaranty.
	2. Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceedings had not been commenced) will be included in the Guaranteed Obligations, because it is the intention of Guarantor and GDOT that the Guaranteed Obligations should be determined without regard to any rule of law or order which may relieve the Design-Builder of any portion of such Guaranteed Obligations. Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or any similar person to pay GDOT, or allow the claim of GDOT in respect of, any such interest accruing after the date on which such proceeding is commenced.
6. **Attorneys’ Fees**. Guarantor agrees to pay to GDOT without demand reasonable attorneys’ fees and all costs and other expenses (whether by lawsuit or otherwise, and including such fees and costs of litigation, arbitration and bankruptcy, and including appeals) incurred by GDOT in enforcing, collecting or compromising any Guaranteed Obligation or enforcing or collecting this Guaranty against Guarantor or in attempting to do any or all of the foregoing.
7. **Joint and Several Liability**. If the Guarantor is comprised of more than one individual and/or entity, such individuals and/or entities, as applicable, shall be jointly and severally liable for the Guaranteed Obligations. If more than one guaranty is executed with respect to the Design-Builder and the Project, each guarantor under such a guaranty shall be jointly and severally liable with the other guarantors with respect to the obligations guaranteed under such guaranties. GDOT may in its sole discretion: (a) bring suit against Guarantor, or any one or more of the Persons constituting Guarantor, and any other guarantor, jointly and severally, or against any one or more of them; (b) compromise or settle with any one or more of the Person(s) constituting Guarantor, or any other guarantor, for such consideration as GDOT may deem proper; and (c) discharge or release one or more of the Person(s) constituting Guarantor, or any other guarantor, from liability or agree not to sue such Person, none of which shall in any way affect the obligations hereunder of any other Person(s) constituting the Guarantor, or otherwise affect or impair the rights of GDOT hereunder with respect to such other Person(s) constituting the Guarantor.
8. **Defenses.** Notwithstanding any other provision to the contrary, Guarantor shall be entitled to the benefit of all defenses, protections, and rights of notice, enforcement and collection available to the Design-Builder under the Design-Build Agreement except for the following (with respect to which, for the avoidance of doubt, Guarantor shall under no circumstances be entitled): (a) those expressly waived in this Guaranty, (b) failure of consideration, lack of authority of the Design-Builder and any other defense to formation of the Design-Build Agreement, (c) defenses available to the Design-Builder under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors;. Action against Guarantor under this Guaranty shall be subject to no prior notice or demand.
9. **Additional Guarantor Waivers and Acknowledgements.**
	1. Guarantor hereby waives any and all defenses it might have that Liquidated Damages, or Nonrefundable Deductions and other stipulated damages, constitute a penalty or that they do not bear a reasonable relation to the actual damages.
	2. GUARANTOR ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON EXECUTION OF THIS GUARANTY. NO FORMAL ACCEPTANCE BY GDOT IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE. THIS GUARANTY IS EFFECTIVE AS OF THE DATE HEREOF.
	3. Guarantor hereby waives any benefit of O.C.G.A. § 10-7-24.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed and

delivered by its duly authorized officer effective as of this       day of       20  .

[\_\_\_\_\_]

By:

Name:

Title:

Attested:

By:

Name:

Title:

Financial Certificate

Proposer shall provide the following certificates, in letter form, with the language in bold verbatim as follows:

#### With respect to Proposer (from each of its organization or JV members or bidding consortium members, as may be applicable), a letter, signed by the President, Chief Executive Officer, Chief Financial Officer, Treasurer, or equivalent position, in each case authorized and empowered to certify on behalf of its company, dated no earlier than 14 calendar days prior to the Proposal Due Date, certifying that:

###### No material change has occurred in the respective entity’s financial position since the deadline for submission of the Proposer’s prequalification application;

###### No voluntary or involuntary bankruptcy, insolvency, liquidation, restructuring, suspension of payments, scheme or arrangement, appointment of provisional liquidated, receiver, or administrative receiver, resolution or petition for winding-up or similar proceeding, under any applicable law, in any jurisdiction, is imminent or threatened; and

###### Its respective entity’s financial position does not reflect any material contingent liabilities (including off-balance sheet liabilities), unusual forward or long-term commitments, in each case that arose since the deadline for submission of the prequalification and that, if ultimately selected as the Apparent Successful Proposer (with its then-identified DB Team), the entity has sufficient financial capacity, strength, and ability to carry out the Project responsibilities for the Project.

#### With respect to the Lead Contractor (if not the Proposer), the Lead Design Consultant (also if not the Proposer), and each Major subcontractor and Major subconsultant, a letter, signed by the President, Chief Executive Officer, Chief Financial Officer, Treasurer, or equivalent position, in each case authorized and empowered to certify on behalf of its company, dated no earlier than 14 calendar days prior to the Proposal Due Date, certifying to each of the items in subparagraph a. just above; provided that:

###### as pertains to the Lead Contractor and construction subcontractors, such officers must certify that no material change has occurred in the respective entity’s financial position since the deadline for submission of the prequalification application; and

###### as pertains to the Lead Design Consultant and design subconsultants, such officers must certify that no material change has occurred in the respective entity’s financial position since the deadline for submission of the prequalification application.

**INDICATIVE PROPOSAL QUANTITIES**

**INSTRUCTIONS:**

(a) Submit one completed copy of Form AA for the Proposer.

(b) Populate the Indicative Proposal Quantity column for each Base Material item on the unit basis indicated

|  |  |  |
| --- | --- | --- |
| **Base Material** | **Indicative Proposal Quantity** | **Unit** |
| Asphalt Cement |       | Ton |
| Fuel (Regular) |       | Gallon |
| Fuel (Diesel) |       | Gallon |
| Semi-Finished Steel Mill Products |       | CWT |
| Portland cement ingredients and related products |       | Ton |

Indicative Proposal Quantities shall be true estimates based on the Proposer’s design and construction plan. They shall be supported by calculations either attached to this form or contained in the Escrowed Documents showing how the amounts are derived from the Proposer’s design and construction plan and assumptions.

**Certification form**

I,      , being duly sworn, state that I am       (title) of       (name of firm, joint venture member, joint bidder, or other entity) (“Entity”), have been authorized to make the following acknowledgments and certifications for myself and on behalf of the Entity, and hereby acknowledge and certify as follows:

1. I certify that I have read and understand the information presented in the attached Proposal and any enclosure and exhibits thereto, in each case as pertains to the Entity, and such understanding and my review imputes constructive knowledge of the Entity of the information contained within the Proposal.
2. I further certify that the information given in the Proposal, as well as any response to GDOT inquiries in connection with procurement of the Project identified under the Request for Proposals (RFP 484-06162022DB (RFP), in each case as pertains to the Entity, is full, complete and truthful.
3. I further certify that the Entity, any of its affiliates1, and any principal employee of the Entity or any affiliate has not, in the immediately preceding five years:
	1. been indicted, convicted, pled *nolo contendere*, or received probation before judgment (under Georgia or any other federal, state, or municipal law) of bid (i.e., fraud, bribery, collusion, conspiracy, antitrust, etc.) or other contract related crimes or violations (including attempt and conspiracy) or any other felony or misdemeanor;
	2. been disqualified, removed, debarred, suspended from performing work for, or found to be a non-responsible bidder by, the federal government, any state or local government, or any foreign governmental entity;
	3. sought protection under any provision of any bankruptcy act;
	4. been found liable in a civil suit or found guilty in a criminal action for bid fixing, any deceptive show of competition, or otherwise taken any action in restraint of free competitive bidding in connection with any contract for which an accompanying statement of qualifications, proposal, bid, or offer is submitted;
	5. been found liable in a civil suit or found guilty in a criminal action for making any false claim or other material misrepresentation to a public entity;

1 **“Affiliate”** means (a) equity or joint venture member or partner of the Entity; (b) any person or entity that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Entity or any of its shareholders, members, partners or joint venture members; and (c) any entity for which 10% or more of the equity interest in such entity is held directly or indirectly, beneficially or of record by (i) the Entity, (ii) any equity or joint venture member or partner of the Entity, or (iii) any Affiliate of the Entity as defined under clause (b) of this definition.  “Control” under this definition means the possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies (or both) of a person or entity, whether through voting rights or securities, by contract, family relationship or otherwise.

1. I further certify that neither the Entity nor any affiliate is now under consideration for disqualification, removal, debarment, or suspension by the federal government, any state or local government, or any foreign governmental entity.
2. I further certify that neither the Entity nor any of its affiliates, to the extent not already certified above, is a party to any proceeding, claim, matter, suit, indictment, etc. currently pending against such firm, member, bidder, or affiliate that could result in the Entity (or affiliate) being found liable, guilty in any civil suit or criminal action or subject to debarment, suspension, removal or disqualification by the federal government, any state or local government, or any foreign governmental entity.
3. I further certify that the Entity and its affiliates have not in the immediately preceding five years been determined, pursuant to a final determination in a court of law, arbitration proceeding, or other dispute resolution proceeding, to have defaulted in any federal, state or local government agency contract and further, that the Entity (or affiliate) is not now under any notice of intent to default on any such contract.
4. I further certify that the Entity and its affiliates have not in the immediately preceding five years, been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and any applicable Georgia governmental agency) to have violated any laws or Executive Orders relating to employment discrimination or affirmative action, including but not limited to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000 et seq.); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar Georgia law.
5. I further certify that the Entity and its affiliates have not in the immediately preceding five years been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the Georgia Department of Labor (or its equivalent), federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state governing prevailing wages (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation.
6. I further certify that the Entity and its affiliates have not in the immediately preceding five years, had its surety complete any work on its or its affiliate’s behalf on a public infrastructure project.
7. I further certify that the Entity and its affiliates have not in the immediately preceding five years had any license, credential, or registration revoked or suspended.
8. I further certify that the Entity and its affiliates have not in the immediately preceding five years, been removed from a similar contract or failed to complete an assigned contract.
9. ***[Include only if the certifying Entity is the Lead Design Consultant]*** [I further certify that in regard to audit and accounting system requirements, that the Lead Design Consultant:
10. Has an accounting system in place to meet requirements of 48 CFR Part 31 and, in the case of nonprofit organizations, OMB Circular A-122.
11. Has submitted its yearly Certified Public Accountant (CPA) overhead audit if it currently has an aggregate contract amount exceeding $250,000.
12. Has no significant outstanding deficient audit findings from previous contracts with GDOT that have not been resolved.
13. Is responsible for being reasonably assured that all subconsultant(s) presented as a part of the proposed team are similarly in compliance with the above requirements.]

I acknowledge, agree and authorize, and certify that the Entity acknowledges, agrees, and authorizes that GDOT may, by means that either deems appropriate, determine the accuracy and truth of the information provided hereby, on behalf of the Entity and that GDOT may contact any person or firm, joint venture member, or joint bidder named in the Proposal for the purpose of verifying the information supplied therein.

I acknowledge and agree on behalf of the Entity that, as between the Entity and GDOT, all costs and expenses incurred by or on behalf of the Entity in preparing this Proposal and participating in this procurement will be borne solely by the Entity and not by GDOT, except and solely to the extent, of any payment expressly stated as due or contingently due (upon meeting of the relevant contingency) by GDOT to Proposer.

I, the undersigned, certify that all organizational authorizations by, or on behalf of, the Entity have been received both for me to sign on their collective behalf and for them to be bound hereby.

Capitalized terms used, but not defined, have the meanings given in the RFP.

Sworn and subscribed before me

|  |  |  |
| --- | --- | --- |
|  |  |  |
| This       day of      , 20  . |  | Signature |
|       |  |  |
| NOTARY PUBLIC |  |  |
|  |  | [NOTARY SEAL] |

My Commission Expires:

**PDMS access request**

**INSTRUCTIONS:**

1. Submit one copy of Form CC (PDMS Access Request) for each Respondent team by the Deadline shown in Section 1.4 (Procurement Schedule).
2. Submit this form in PDF format to the Contracting Officer at the email listed in ITP Section 2.2 (Communication between GDOT and Proposers).
3. An authorized representative of the Respondent must sign this Form CC (PDMS Access Request).

Attn: Marlo Clowers

Subject: PDMS Access Request

RFP 484-06162022DB, PI No. 0017219 & 0018363 – US 278 Widening and Frontage Road DB Project

|  |  |  |  |
| --- | --- | --- | --- |
| Name of Respondent: |       | Date: |       |

We request access to the PDMS for purposes of uploading the Proposer’s Proposal. Please provide credentials to the following representative:

|  |  |
| --- | --- |
| Name:  |       |
| Email Address: |       |
| Telephone Number: |       |

We also identify the following person as the Proposer’s **“Authorized Representative”**, as the single point of contact for Proposer, who is making this request.

|  |  |  |  |
| --- | --- | --- | --- |
| By: |  | Print Name: |       |
| Title: |       | Date: |       |
| Telephone: |       | Email Address: |       |
| Mailing Address: |       |

Executed [Date] .

|  |  |  |
| --- | --- | --- |
|       |  |  |
| Name of Company Representative (Print) |  | Signature of Authorized Representative |
|       |  |       |
| Address |  | Title |
|       |  |       |  |       |
| City |  | State and ZIP Code |  | Telephone Number |

(or international address, if applicable)

**Basic company information**

FOR PROPOSER, LEAD CONTRACTOR AND LEAD DESIGN CONSULTANT

NAME:

ROLE OF TEAM MEMBER:

INSTRUCTIONS:

Provide the following basic company information for the Proposer, the Lead Contractor andtheLead Design Consultant:

|  |  |
| --- | --- |
| Company Name(s) |       |
| Company address(es) |                 |
| Name of primary contact and all contact information including telephone number(s) and email address(es). |       [primary point of contact]      [telephone number(s)]      [email address(es) |
| Company website(s) (if available) |       |
| If the company has multiple offices, include information about the parent company and branch office(s) separately. Identify the office from which the Project will be managed.  | Parent company information (name, address)     Relevant branch office(s) information (name(s), address(es))      |
| Provide form of ownership (whether it is a sole proprietorship, partnership, corporation, Limited Liability Corporation (LLC), joint venture, joint bidders, or other structure), including state of residency or incorporation, and the number of years in business |      State of organization:      Domicile:      Number of years:       |
| Other Information |       |

**Notes:**

* For joint venture entities that have not undertaken at least *two* projects together, each entity should submit its qualifications separately.
* This Form DD (Basic Company Information) must not exceed one page for each consortium or JV member.

**INdustrial safety record**

FOR PROPOSER, LEAD CONTRACTOR AND ANY MAJOR[[9]](#footnote-10)1 SUBCONTRACTORS (AS APPLICABLE)

RESPONDENT’S NAME:

NAME OF TEAM MEMBER:

ROLE OF TEAM MEMBER:

**INSTRUCTIONS:**

This form shall be filled out separately and provided for the Proposer, the Lead Contractor, and any Major subcontractors, in each case that has undertaken work in the United States and is intended to perform or supervise construction work for the Project, and including information for any entity affiliated with any such team member that has undertaken work in the United States as of the end of the last federal Occupational Safety and Health Administration (OSHA) reporting period and for each reporting period before that identified on this form. For team members that are members of joint ventures or consortia, information as to the joint venture/consortium shall be provided as though 100% of the results were for the listed participant. GDOT may solicit additional information from team members through the Respondent to aid GDOT in its evaluation of the team member’s safety record.

|  | **2019** | **2020** | **2021** |
| --- | --- | --- | --- |
| 1) Total Hours Worked (in thousands): |       |       |       |
| 2) Number of fatalities:\*  |       |       |       |
| 3) Number of lost workdays:\*  |       |       |       |
| 4) Number of lost workdays\* cases: |       |       |       |
| 5) Number of injury/illness\* cases: |       |       |       |
| 6) Number of calendar days of restricted work activity due to injury/illness:\*  |       |       |       |
| 7a) Incidence Rate\*\* (Lost Workday Cases): |       |       |       |
| 7b) Incidence Rate\*\* (calendar days Lost): |       |       |       |

\* The information required for these items is intended to be substantially the same as required under Log of Work-Related Injuries and Illnesses, OSHA Form 300.

\*\* Incidence Rate = No. of Injuries and Illnesses (Cases) x 200,000 / Total Hours Worked

*[remainder of page intentionally blank]*

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury under the laws of the State of Georgia that the information is true and accurate within the limitation of those records.

Executed [Date].

|  |  |  |
| --- | --- | --- |
|       |  |  |
| Name of Company  |  | Signature  |
|       |  |       |
| Address |  | Title |
|       |  |       |  |       |
| City |  | State and ZIP Code |  | Telephone Number |

(or international address, if applicable)

RESUME FORM

|  |  |
| --- | --- |
| Key Personnel Position | [Insert name and title here] |
| Project Experience #1 | Project Name |       |
| Project Description (including size) |       |
| Position Title  |       |
| Time in this position | From (year)       (month)       to (year)       (month)       equals total of       years       months |
| Detailed description of project responsibilities for this position title |       |
| Explanation regarding the relevance of this experience to the minimum qualifications for the Key Personnel position |       |
|  |  |  |
| Project Experience #2 | Project Name |       |
| Project Description (including size) |       |
| Position Title  |       |
| Time in this position | From (year)       (month)       to (year)       (month)       equals total of       years       months |
| Detailed description of project responsibilities for this position title |       |
| Explanation regarding the relevance of this experience to the minimum qualifications for the Key Personnel position |       |
|  |  |  |
|  | ***[Copy and paste as needed to demonstrate additional project experience for a minimum of 10 years’ industry experience and at least three years’ experience in the same or similar role for projects of similar size and complexity as the Project]*** | From (year)       (month)       to (year)       (month)       equals total of       years       months |
|  |  |  |
| Education | List all formal education, certifications, registrations and other credentials relevant to the Key Personnel role | Institution, date, expiration (if applicable) |
|  |  |  |
| Summary of Experience | List total number of years and months of experience relevant to experience required for each Key Personnel Position named and reflected in this Form FF to:1. Industry Experience\*
2. Experience in the same or similar role for projects of similar size and complexity as the Project

\* Note – If the years of industry experience listed in this Summary of Experience section is greater than the combined years of experience listed in this Form FF, substantiate the additional time (within the page limit) with a concise, verifiable narrative. | ***[Insert cumulative total years and months of experience as demonstrated by the above experience only that are applicable to each Key Personnel position.]*** |
|  |  |  |
| References | ***Reserved.*** |  |

1. Please note that clauses (b) and (c) of these “additional requirements” do not apply if the Proposer is a yet-to-be-formed entity [↑](#footnote-ref-2)
2. 4 Please note that if the Proposer is a yet-to-be-formed entity, this requirement can be satisfied with pro

forma documents, which, when executed, must be in the form substantially similar to that submitted. [↑](#footnote-ref-3)
3. Reproduce as necessary to ensure all required signatories are identified, sign, and signatures are sealed. [↑](#footnote-ref-4)
4. or any subsequent replacement operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify Information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603. [↑](#footnote-ref-5)
5. 1 Surety to adjust this form as necessary to identify the entity for which this certification and acknowledgment is offered and for which P&P Bonds will be issued. [↑](#footnote-ref-6)
6. Refer to rating requirements in the DBA. [↑](#footnote-ref-7)
7. Add if there are more than one guarantor. [↑](#footnote-ref-8)
8. Add if there are more than one guarantor. [↑](#footnote-ref-9)
9. 1 A “**Major**” subcontractor is a subcontractor that will perform a substantial part (anticipated at 10% or more) of the Design-Build services. [↑](#footnote-ref-10)